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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/817,732

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Walter G. Bright

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12/11/2003

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EXAMINER

NGUYEN, LEE

ART UNIT

PAPER NUMBER

2682

DATE MAILED: 12/11/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/817,732

Applicant(s)

BRIGHT ET AL.

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The IDS filed 7/30/2002 has been considered and recorded in the file.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-2, 4, 12-13, 15 and 23-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21, 23 of copending Application No. 09/975,287, referred to as Application'287 hereinafter. Although the

conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 1 and 4, claim 21 of Application'287 discloses a wireless mobile phone, including a transceiver as claimed; vibrating device and an adapter interface, corresponding to the claimed means coupled, which is substantially similar to claim 1 of the present application. The wireless mobile phone of claim 21 of Application'287 inherently includes a body casing with a front face surface.

Regarding claim 2, claim 23 of Application'287 also teaches Morse codes.

Regarding claim 12, claim 21 of Application'287 direct to a wireless mobile phone, rather than a wireless pager. It is obvious that the mobile phone has similar functions of a pager. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include pager function to the mobile telephone of claim 21 in order to enhance functionality of the mobile phone.

Regarding claim 13, claim 21 of Application'287 also teaches the transceiver.

Regarding claim 15, the claim is interpreted and rejected for the same reason as set forth in claim 23 of Application'287.

Regarding claim 23, the claimed PDA is interpreted and rejected for the same reason as set forth in the pager of claim 12 of Application'287.

Regarding claim 24, the claim is interpreted and rejected for the same reason as set forth in claim 23 of Application'287.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 6, 8-9, 11, 33-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Okano (US 6,573,825).

Regarding claims 6, 33, Okano teaches a wireless mobile phone comprising: inherently a body casing (fig. 7); a transceiver 2 to send and receive signals including alphanumeric data; a vibrator 7 coupled to said body casing to vibrate said wireless mobile phone; a storage medium 3 having stored therein a plurality of programming instructions, which when executed cause the wireless mobile phone to vibrationally output received alphanumeric data through vibrational manifestation of the received alphanumeric data using the vibrator; and an execution unit 1 coupled to the storage medium for executing the plurality of programming instructions (col. 6, lines 11-24).

Regarding claim 8, Okano also teaches that said plurality of programming instructions comprises programming instructions, which when executed cause the wireless mobile phone to vibrationally output Morse code representations of the received alphanumeric data (col. 6, lines 11-24).

Regarding claim 9, Okano teaches in a wireless mobile phone, a method comprising: receiving signals representing alphanumeric data (col. 6, lines 19-22); determining if the mobile phone is operating in a vibrational output mode (col. 6, lines 2-3); and identifying vibrational representations of

at least a portion of the alphanumeric data and outputting the vibrational representations if the mobile phone is operating in a vibrational output mode (col. 6, lines 11-24).

Regarding claim 11, Okano also teaches vibrationally outputting Morse code representations of said alphanumeric data if the mobile phone is operating in the vibrational output mode (col. 6, lines 2-3 and lines 11-24).

Regarding claims 34-37, Okano also teaches that the vibrator causes wireless communication device to vibrate at multiple distinct frequencies, wherein vibrations at each frequency are user distinguishable and that the vibrator causes the wireless communication device to vibrate at any two of the multiple frequencies so as to generate Morse code based vibrational representations of the received alphanumeric data and that the vibrator causes wireless communication device to vibrate for multiple distinct durations wherein each vibrational duration is user-distinguishable and that the vibrator causes the wireless communication device to vibrate at any two of the multiple distinct durations so as to generate Morse code based vibrational representations of the received alphanumeric data (see fig. 8).

Regarding claim 38, Okano teaches in a wireless communication device, a method comprising: receiving signals representing alphanumeric data (col. 6, lines 11-24); determining if the wireless communication device is operating in a vibrational output mode (col. 6, lines 2-3); and identifying vibrational representations of at least a portion of the alphanumeric data and outputting the vibrational representations if the wireless communication device is operating in a vibrational output mode (col. 6, lines 11-24).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly



owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-4, 12-16, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okano (US 6,573,825) in view of Panther et al. (US 5,263,195).

Regarding claim 1, Okano teaches a wireless mobile phone comprising: inherently a body casing having a front surface (fig. 7, numerals 4 and 6); a transceiver 2 send and receive signals including alphanumeric data; a vibrator 7. Okano also teaches that the vibrator 7 coupled to said body casing to vibrate said wireless mobile phone and vibrationally outputting received alphanumeric data through vibrational manifestation of the received alphanumeric data (col. 6, lines 11-24); Okano fails to teach means coupled to said vibrator and said transceiver. In other word, the vibrator is attachable to the transceiver. Panther teaches that the vibrator is attachable to a pager (col. 14, lines 11-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the detachable vibrator of Panther to the mobile phone of Okano so that the vibrator load does not cause premature

battery failure and mobile phone battery can be very much smaller and the battery lifetime is extended.

Regarding claim 2, Okano as modified also teaches that said means for vibrationally outputting received alphanumeric data comprises means for outputting Morse code representations of the received alphanumeric data (col. 6, lines 11-24 of Okano).

Regarding claim 3, Okano as modified also teaches that said vibrator is disposed within said body casing (fig. 7, numeral 7 of Okano).

Regarding claim 4, Okano as modified also teaches that the means for vibrationally outputting received alphanumeric data comprises means for vibrationally outputting alphanumeric data received via said transceiver (col. 6, lines 11-24 of Okano).

Regarding claims 12 and 23, the claims are interpreted and rejected for the same reason as set forth in claim 1. Okano does not teach that the mobile phone can also be a pager and a PDA. It is taken official notice that a mobile phone that can function as a two-way pager or a PDA is conventionally well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the

pager and the PDA that function as the mobile phone of Okano in order to enhance the functional operability of the mobile phone.

Regarding claim 13, Okano also teaches a transmitter to transmit signals (fig. 7, numeral 2 of Okano).

Regarding claim 14, the claim is interpreted and rejected for the same reason as set forth in claim 7.

Regarding claims 15, 24, the claims are interpreted and rejected for the same reason as set forth in claim 8.

Regarding claims 16, 25, the claims are interpreted and rejected for the same reason as set forth in claim 3.

9. Claims 5, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okano in view of Panther as applied to claim 1 above, and further in view of Anderson (US 5,721,783).

Regarding claims 5, 26, Okano as modified also teaches an input keypad 4 (fig. 7). However, Okano fails to teach that said keypad facilitates entry of alphanumeric data, and wherein said means for vibrationally outputting received alphanumeric data comprise means for vibrationally outputting alphanumeric data received via said input keypad. In an

analogous art, Anderson teaches that the keypad facilitates entry of alphanumeric data, and wherein said means for vibrationally outputting received alphanumeric data comprise means for vibrationally outputting alphanumeric data received via said input keypad (col. 20, line 65 through col. 21, line 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Anderson to the mobile phone of Okano in order to provide both solicited and unsolicited information (col. 25, lines 55-56).

10. Claims 7, 10, 17-22, 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okano (US 6,573,825).

Regarding claims 7, 10, Okano also teaches two modes, which inherently include a switch for switching between sound, and vibration mode (col. 6, lines 2-3). Okano fails to teach visual output mode. It is taken official notice that the art of providing visual mode in addition to vibration mode is conventionally well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to also include visual output mode to the mobile phone of Okano so that the user can have an option of visual display, rather than vibration or audio.

Regarding claims 17, 27, the claims are interpreted and rejected for the same reason as set forth in claim 6. Okano does not teach that the mobile phone can also be a pager and a PDA. It is taken official notice that a mobile phone that can function as a two-way pager or a PDA is conventionally well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the pager and the PDA that function as the mobile phone of Okano in order to enhance the functional operability of the mobile phone.

Regarding claims 18, 28, the claims are interpreted and rejected for the same reason as set forth in claim 7.

Regarding claims 19, 29, the claims are interpreted and rejected for the same reason as set forth in claim 8.

Regarding claims 20, 30, the claims are interpreted and rejected for the same reason as set forth in claims 9 and 17.

Regarding claims 21, 31, the claims are interpreted and rejected for the same reason as set forth in claim 7.

Regarding claims 22, 32, the claims are interpreted and rejected for the same reason as set forth in claim 11.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

 12/4/03  
LEE NGUYEN  
Primary Examiner  
Art Unit 2682